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8 IN RE: SOCIAL MEDIA ADOLESCENT
9 ADDICTION/PERSONAL INJURY
10 PRODUCTS LIABILITY LITIGATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Case No. [22-md-03047-YGR](#) (PHK)

**ORDER RE: SCHEDULE FOR STATE
AGENCY DOCUMENT PRODUCTION**

Re: Dkts. 1466 and 1472

14 This MDL has been referred to the undersigned for discovery purposes. *See* Dkt. 426.
15 Now pending before the Court are joint letters submitted by Meta and the States regarding their
16 proposed schedules for completing discovery from the state agencies in this action. [Dkt. 1466;
17 Dkt. 1471]. The Court ordered these Parties to submit these schedules at the December 11, 2024
18 Discovery Management Conference (“DMC”) in response to the ongoing delays in finalizing
19 search terms, custodians, and other search procedures for many of the state agencies’ documents.

20 The Court reiterates the relevant legal standards for discovery. Federal Rule of Civil
21 Procedure 26(b)(1) delineates the scope of discovery in federal civil actions and provides that
22 “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's
23 claim or defense and proportional to the needs of the case.” Information need not be admissible to
24 be discoverable. *Id.* Relevancy for purposes of discovery encompasses “any matter that bears on,
25 or that reasonably could lead to other matter that could bear on, any issue that is or may be in the
26 case.” *In re Williams-Sonoma, Inc.*, 947 F.3d 535, 539 (9th Cir. 2020) (quoting *Oppenheimer*
27 *Fund, Inc. v. Sanders*, 437 U.S. 340, 350-51 (1978)); *see also In re Facebook, Inc. Consumer*
28 *Privacy User Profile Litig.*, No. 18-MD-2843 VC (JSC), 2021 WL 10282215, at *4 (N.D. Cal.

1 Sept. 29, 2021) (“Courts generally recognize that relevancy for purposes of discovery is broader
2 than relevancy for purposes of trial.”) (alteration omitted).

3 While the scope of relevance is broad, discovery is not unlimited. *ATS Prods., Inc. v.*
4 *Champion Fiberglass, Inc.*, 309 F.R.D. 527, 531 (N.D. Cal. 2015) (“Relevancy, for the purposes
5 of discovery, is defined broadly, although it is not without ultimate and necessary boundaries.”).
6 Information, even if relevant, must be “proportional to the needs of the case” to fall within the
7 scope of permissible discovery. Fed. R. Civ. P. 26(b)(1). The 2015 amendments to Rule 26(b)(1)
8 emphasize the need to impose reasonable limits on discovery through increased reliance on the
9 commonsense concept of proportionality: “The objective is to guard against redundant or
10 disproportionate discovery by giving the court authority to reduce the amount of discovery that
11 may be directed to matters that are otherwise proper subjects of inquiry. The [proportionality
12 requirement] is intended to encourage judges to be more aggressive in identifying and
13 discouraging discovery overuse.” Fed. R. Civ. P. 26 advisory committee’s note to 2015
14 amendment. In evaluating the proportionality of a discovery request, the Court considers “the
15 importance of the issues at stake in the action, the amount in controversy, the parties’ relative
16 access to the information, the parties’ resources, the importance of the discovery in resolving the
17 issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.”
18 Fed. R. Civ. P. 26(b)(1).

19 The party seeking discovery bears the burden of establishing that its request satisfies the
20 relevancy requirements under Rule 26(b)(1). *La. Pac. Corp. v. Money Mkt. I Inst. Inv. Dealer*,
21 285 F.R.D. 481, 485 (N.D. Cal. 2012). The resisting party, in turn, has the burden to show that the
22 discovery should not be allowed. *Id.* The resisting party must specifically explain the reasons
23 why the request at issue is objectionable and may not rely on boilerplate, conclusory, or
24 speculative arguments. *Id.*; *see also Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir.
25 1975) (“Under the liberal discovery principles of the Federal Rules defendants were required to
26 carry a heavy burden of showing why discovery was denied.”).

27 The Court has broad discretion and authority to manage discovery. *U.S. Fidelity & Guar.*
28 *Co. v. Lee Inv. LLC*, 641 F.3d 1126, 1136 n.10 (9th Cir. 2011) (“District courts have wide latitude

1 in controlling discovery, and their rulings will not be overturned in the absence of a clear abuse of
2 discretion."); *Laub v. U.S. Dep't of Int.*, 342 F.3d 1080, 1093 (9th Cir. 2003). As part of its
3 inherent discretion and authority, the Court has broad discretion in determining relevancy for
4 discovery purposes. *Survivor Media, Inc. v. Survivor Prods.*, 406 F.3d 625, 635 (9th Cir. 2005)
5 (citing *Hallett v. Morgan*, 296 F.3d 732, 751 (9th Cir. 2002)). The Court's discretion extends to
6 crafting discovery orders that may expand, limit, or differ from the relief requested. *See*
7 *Crawford-El v. Britton*, 523 U.S. 574, 598 (1998) (holding trial courts have "broad discretion to
8 tailor discovery narrowly and to dictate the sequence of discovery"). For example, the Court may
9 limit the scope of any discovery method if it determines that "the discovery sought is unreasonably
10 cumulative or duplicative, or can be obtained from some other source that is more convenient, less
11 burdensome, or less expensive." Fed. R. Civ. P. 26(b)(2)(C)(i).

12 Throughout this litigation, the Court has encouraged (and continues to insist that) the
13 Parties approach discovery in a collaborative and rational manner. *See* Fed. R. Civ. P. 1 advisory
14 committee's note to 2015 amendment ("Rule 1 is amended to emphasize that just as the court
15 should construe and administer these rules to secure the just, speedy, and inexpensive
16 determination of every action, *so the parties share the responsibility to employ the rules in the*
17 *same way. Most lawyers and parties cooperate to achieve these ends.* But discussions of ways to
18 improve the administration of civil justice regularly include pleas to discourage over-use, misuse,
19 and abuse of procedural tools that increase cost and result in delay. *Effective advocacy is*
20 *consistent with—and indeed depends upon—cooperative and proportional use of procedure.*")
21 (emphasis added). This Court has admonished all Parties in this case that counsel have a proactive
22 duty to conduct discovery under the rules without requiring constant judicial intervention. *See*
23 *Poole ex rel. Elliott v. Textron, Inc.*, 192 F.R.D. 494, 507 (D. Md. 2000) ("The rules of discovery
24 must necessarily be largely self-enforcing. The integrity of the discovery process rests on the
25 faithfulness of *parties and counsel* to the rules—both the spirit and the letter.") (emphasis added);
26 *Hopei Garments (Hong Kong), Ltd. v. Oslo Trading Co.*, No. 87 CIV. 0932 (MBM), 1988 WL
27 25139, at *3 (S.D.N.Y. Mar. 8, 1988) ("[T]he discovery provisions of the Federal Rules are meant
28 to function without the need for constant judicial intervention, and [] those Rules rely on the

1 honesty and good faith of counsel in dealing with adversaries.”); *see also Chism v. Nat'l Heritage*

2 *Life Ins. Co.*, 637 F.2d 1328, 1331 (9th Cir. 1981) (“[E]mbroil[ing] the trial judge ‘in day-to-day

3 supervision of discovery . . . [is] a result directly contrary to the overall scheme of the federal

4 discovery rules”); *cf. In re Google Litig.*, No. C 08-03172 RMW (PSG), 2011 WL 6951972, at *6

5 (N.D. Cal. July 8, 2011) (Parties should not be “free to flout their [discovery] obligations until a

6 trial court utterly loses patience with them, and thereby embroil trial judges in day-to-day

7 supervision of discovery.”).

8 At the DMC held on December 11, 2024, and pursuant to Discovery Management Order

9 No. 13 issued thereafter, the Court ordered Meta and the state agencies at issue to jointly submit

10 final proposed schedules for getting state agency-related discovery finished within the currently

11 set case schedule. *See* Dkt. 1479. The Parties promptly did so. *See* Dkts. 1466, 1472. The Court

12 has carefully reviewed these submissions.

13 The Court attaches as an Appendix to this Order a marked-up version of the proposed

14 schedules which indicates those proposed deadlines adopted by the Court, those proposed

15 deadlines rejected by the Court, and modified deadlines as set by the Court in light of the tasks

16 remaining in discovery, the time available, the current case schedule, and as an exercise of the

17 Court’s discretion to manage discovery.

18 Given the history of these Parties’ inability to work out their differences in discovery, the

19 Court was not shocked but nonetheless was disappointed at their failure to submit even *one* jointly

20 proposed, fully agreed upon schedule as between Meta and the numerous state agencies at issue.

21 All of the proposed schedules submitted were, at least to some extent, disputed. Further, despite

22 this Court’s explicit directives at the DMC for these proposed schedules to be submitted, two

23 States failed to submit *any* proposed schedule for their agencies. Moreover, several States failed

24 to counter propose a handful of specific dates for individual line-item deadlines or events, where

25 Meta proposed dates for those specific events. The Court finds that failures by certain States to

26 counter propose any schedule at all, or to counter propose a date in response to a specific date

27 proposed by Meta, constitute a knowing waiver of rights.

28 The Court is likewise disappointed at the often times extreme positions set forth in the

1 Parties' competing proposed schedules. For example, one State proposed a highly truncated
2 window of only one week in which depositions of the State's agencies could be taken. Meta, for
3 its part, proposed for all States that the first date Meta could serve deposition notices would be
4 December 30, 2024, with an additional proposal that all States object within three business days
5 (*i.e.*, over the New Year's holiday) or that the States counter propose deposition dates within
6 seven business days. Despite the Court's guidance at several DMCs to work things out rationally,
7 these types of competing proposed schedules strain credulity. Given the relatively early first date
8 for Meta to be able to serve deposition notices, there is no need to deviate from Section D of this
9 Court's Standing Order for Discovery, which sets forth the requirements for the state agencies to
10 object and counter propose alternate dates for depositions, if there are any objections. The Court
11 expects counsel for all Parties to fully comply with the letter and spirit of Section D with regard to
12 deposition scheduling.

13 The Court is further disappointed that the Parties' competing proposals included a number
14 of cases in which the competing proposed deadlines differed only by about one or two weeks—
15 experienced counsel on both sides of this dispute know better. The Court is discontented that
16 seasoned attorneys for Meta and the States were incapable of reaching agreement on dates where
17 the difference between the Parties was just a matter of days. At the last two DMCs, the Court
18 heard repeatedly from lawyers for both sides that they were working hard to compromise, that they
19 were trying their best, and that the failure to reach final agreements was the fault of the other side.
20 At this point, such self-serving statements stand in stark contrast to what the Court has seen in the
21 competing proposed schedules. Counsel on both sides should focus on actually compromising to
22 resolve their disputes over search terms, custodians, and search procedures—results and actions
23 will speak louder than generic arguments which strain credulity.

24 With regard to finalizing agreements on search terms and custodians, the Court is deeply
25 concerned that several States included caveats in their proposed schedules (and a handful included
26 argument about the alleged overbreadth of Meta's search terms). As noted in the attached
27 Appendix, the Court **ORDERS** all of these Parties to finalize their agreements on search terms
28 without any further undue delay. In the attached Appendix, the Court has set dates for the

1 commencement of rolling productions by the state agencies, as well as dates for substantial
2 completion of such productions. As a matter of common sense and fair administration of
3 discovery, Meta and the States need to work backward from those dates to figure out for
4 themselves the deadlines by which they need to finalize search terms, custodians, and any other
5 disputed issues. Smart, experienced lawyers understand that they need to finish the search terms
6 negotiations sufficiently prior to the starting date for rolling productions so that rolling
7 productions can actually start by the deadlines set.

8 As noted in the Appendix, the Court has set deadlines for the start of rolling productions.
9 Meta's proposals included multiple such deadlines, which the Court **DENIES** as unnecessary
10 because the concept of rolling productions (plural) is for documents to be continuously produced
11 (in daily or at least weekly batches, as they are processed). The Court notes that several States
12 proposed starting rolling productions much later in the process, which the Court **DENIES** as set
13 forth in the Appendix. The requirement for the state agencies to start rolling productions means
14 that the States are to roll the productions continuously as they are processed, so that productions
15 meet the substantial completion date.

16 The Court has not set a specific date to finalize these negotiations because the Court
17 assumes the Parties understand the practicalities here and will work to finalize by dates that work
18 for the specific situation for each state agency. The Court expects counsel to resolve search terms
19 and custodians without the need for the Court to parse individual search strings for the Parties—as
20 the Court has stated at prior DMCs, counsel are far better suited to negotiate the search terms
21 because of familiarity with the details of the case. Thus, as a practical matter, the Court expects
22 agreements on all search terms and custodians to be finalized within a matter of days from the date
23 of this Order, absent agreement by the Parties or other highly unusual circumstances.

24 Accordingly, Meta and the States **SHALL** file (for each State) a joint one-page status
25 report, by no later than January 6, 2025, stating simply whether negotiations regarding search
26 terms and custodians are finalized such that rolling productions can start by the deadline set by the
27 Court for that State's agencies. Further, the status report for each State **SHALL** indicate whether
28 any or all of the disputes involving that State in the joint discovery letter brief filed on December

1 20, 2024 [Dkt. 1482] have been resolved. If any disputes remain unresolved as between Meta and
2 a particular State, the status report for that State shall identify (without further argument) which
3 disputes in the joint letter brief [Dkt. 1482] remain unresolved. These status reports **SHALL**
4 **NOT** include argument blaming the other side as to why search terms and custodians remain
5 disputed—as far as this Court is concerned, any failure to finalize agreement is a failure by all
6 counsel involved.

7 If a status report for a particular State indicates that search terms and custodians are still
8 disputed (between Meta and one or more agencies of that State) as of January 6, 2025, the Court
9 **ORDERS** that counsel for Meta, counsel for the state agency (or agencies) at issue, and counsel
10 for the State Attorney General's office at issue working on this case **SHALL** meet and confer **in**
11 **person** at a location mutually agreed upon, where that meet and confer shall take on or before
12 **January 14, 2025**. The status report **SHALL** indicate for the Court the date, time, and location of
13 the meet and confer, as well as the names and titles of all lawyers who will be participating in the
14 meet and confer.

15 If the Parties are unable to agree on a schedule or location for this in-person meet and
16 confer, then they **SHALL** jointly report **in person** to Courtroom F on the 15th Floor of the San
17 Francisco courthouse (located at 450 Golden Gate Ave.) at 10:30 a.m. on a mutually agreed upon
18 date chosen from January 7, 2025 through January 14, 2025 where they will receive instructions
19 from the Court on completing their meet and confer at the courthouse. The status report **SHALL**
20 indicate for the Court the names and titles of the lawyers who will appear and **SHALL** inform the
21 Court of the date of their appearance in Courtroom F. If the Parties are unable even to agree upon
22 a date to appear in this Court, then they **SHALL** so state in the status report and they **SHALL**
23 jointly report **in person** to Courtroom F at 10:30 a.m. on January 7, 2025, unless otherwise
24 ordered by the Court.

25 The Court again admonishes the Parties that they must work collaboratively and
26 transparently to get all remaining discovery completed in a timely manner. The Court is
27 disappointed that these Parties have proven incapable of working out their disagreements on this
28 discovery resulting in failures to meet the deadlines previously set. The Court has made clear to

1 these Parties repeatedly that finishing this discovery on the current case schedule is imperative.

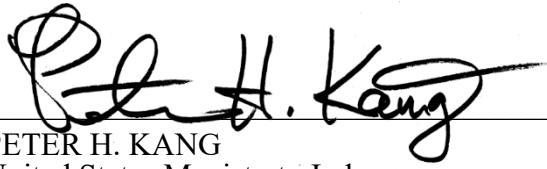
2 The Parties should not expect the Court to grant further extensions for completing this
3 discovery, and the Court will view with a jaundiced eye failures to meet the deadlines set by this
4 Order given the long pendency of this discovery, the extensive guidance previously provided by
5 the Court, and the motions practice this discovery has inordinately spawned. The Court will take
6 fully into account such failures to meet deadlines in evaluating further discovery disputes or other
7 motions practice.

8 This **RESOLVES** Dkts. 1466 and 1472.

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10 **IT IS SO ORDERED.**

11 Dated: December 31, 2024



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13 PETER H. KANG
14 United States Magistrate Judge
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